

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

JOHN ROBERT PRINE,

Plaintiff,

v.

CASE NO. 17-3128-SAC

KEITH SCHROEDER,

Defendant.

MEMORANDUM AND ORDER

This matter is a civil rights action filed under 42 U.S.C. § 1983 by a prisoner in state custody. On September 22, 2017, the Court dismissed this matter for failing to state a claim for relief (Doc. #7). On September 27, 2017, plaintiff submitted a motion for reconsideration (Doc. #9).

The Federal Rules of Civil Procedure do not specifically authorize a motion for reconsideration. In the District of Kansas, “[p]arties seeking reconsideration of dispositive orders or judgments must file a motion pursuant to Fed. R. Civ. P. 59(e) or 60.” D. Kan. R. 7.3(a). Plaintiff does not identify either provision in his motion.

Generally, a court may grant relief from a dispositive order where there is “(1) an intervening change in the controlling law, (2) new evidence previously unavailable, and (3) the need to correct clear error or prevent manifest injustice.” *Servants of the Paraclete v. Does*, 204 F.3d 1005, 1012 (10th Cir. 2000). A motion seeking relief from a court order should not be used to present arguments that the Court has considered and rejected, nor may the moving party present arguments that it failed to present earlier. *Van Skiver v. United States*, 952 F.2d 1241, 1243 (10th Cir. 1991), *cert. denied*, 506 U.S.

828 (1992).

Plaintiff's motion fails to meet any of the criteria for relief. His motion cites "maxims of commerce law", but he fails to present any specific challenge to the Court's determination that he presents no ground for federal relief and that no basis for federal diversity jurisdiction exists. Likewise, while plaintiff claims the defendant has not come forward with any dispute in this matter, he fails to recognize that the Court did not order service in this matter, and instead summarily dismissed the action for failure to state a claim for relief. See 28 U.S.C. § 1915A (requiring the Court to promptly review a civil action filed by a prisoner against a governmental entity or officer or employee of a governmental entity and to dismiss the complaint, or any part of it, that fails to state a claim for relief).

In sum, the Court finds no ground to disturb its order of dismissal in this matter.

IT IS, THEREFORE, BY THE COURT ORDERED plaintiff's motion for reconsideration (Doc. #9) is denied.

IT IS SO ORDERED.

DATED: This 25th day of October, 2017, at Topeka, Kansas.

S/ Sam A. Crow
SAM A. CROW
U.S. Senior District Judge